

## Department of Energy

## § 820.10

for failing to comply with the subpoena or SRO.

(i) *Withheld information.* If a person to whom a subpoena or SRO is directed withholds any document or information because of a claim of attorney-client or other privilege, the person submitting the certification required by paragraph (h) of this section also shall submit a written list of the documents or the information withheld indicating a description of each document or information, the date of the document, each person shown on the document as having received a copy of the document, each person shown on the document as having prepared or been sent the document, the privilege relied upon as the basis for withholding the document or information, a memorandum of law supporting the claim of privilege, and an identification of the person whose privilege is being asserted.

(j) *Statements/testimony.*

(1) If a person's statement/testimony is taken pursuant to a subpoena, the DOE Official shall determine whether the statement/testimony shall be recorded and the means by which it is recorded.

(2) A person whose statement/testimony is recorded may procure a copy of the transcript by making a written request for a copy and paying the appropriate fees. Upon proper identification, any potential witness or his attorney has the right to inspect the official transcript of the witness' own statement or testimony.

(k) *Sequestration.* The DOE Official may sequester any person who furnishes documents or gives testimony. Unless permitted by the DOE Official, neither a witness nor his attorney shall be present during the examination of any other witnesses.

(l) *Attorney.* (1) Any person whose statement or testimony is taken may be accompanied, represented and advised by his attorney; provided that, if the witness claims a privilege to refuse to answer a question on the grounds of self-incrimination, the witness must assert the privilege personally.

(2) The DOE Official shall take all necessary action to regulate the course of testimony and to avoid delay and prevent or restrain contemptuous or obstructionist conduct or contemptuous

language. The DOE Official may take actions as the circumstances may warrant in regard to any instances where any attorney refuses to comply with directions or provisions of this section.

### § 820.9 Special assistant.

A DOE Official may appoint a person to serve as a special assistant to assist the DOE Official in the conduct of any proceeding under this part. Such appointment may occur at any appropriate time. A special assistant shall be subject to the disqualification provisions in §820.5. A special assistant may perform those duties assigned by the DOE Official, including but not limited to, serving as technical interrogators, technical advisors and special master.

### § 820.10 Office of the docketing clerk.

(a) *Docket.* The Docketing Clerk shall maintain a docket for enforcement actions commencing with the issuance of a Preliminary Notice of Violation, interpretations issued pursuant to subpart D of this part, exemptions issued pursuant to subpart E of this part, and any other matters designated by the Secretary. A docket for an enforcement action shall contain all documents required to be filed in the proceeding.

(b) *Public inspection.* Subject to the provisions of law restricting the public disclosure of certain information, any person may, during Department business hours, inspect and copy any document filed with the Docketing Clerk. The cost of duplicating documents shall be borne by the person seeking copies of such documents. The DOE Official may waive this cost in appropriate cases.

(c) *Transcript.* Except as otherwise provided in this part, after the filing of a Preliminary Notice of Violation, all hearings, conferences, and other meetings in the enforcement process shall be transcribed verbatim. A copy of the transcript shall be filed with the Docketing Clerk promptly. The Docketing Clerk shall serve all participants with notice of the availability of the transcript and shall furnish the participants with a copy of the transcript upon payment of the cost of reproduction, unless a participant can show that the cost is unduly burdensome.